

EXHIBIT 18

** CONFIDENTIAL **

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KATHRYN SHIBER, : Civil Action No. 1:21-cv-03649-ER
Plaintiff, :
-against- :
CENTERVIEW PARTNERS, LLC, :
Defendant. :

Via Zoom

February 7, 2023

9:40 a.m.

Deposition of CHERYL ROBINSON, taken by Plaintiff, before Susan B. Ratner, a Shorthand Reporter and Notary Public of the State of New York.

1 A P P E A R A N C E S:

2

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4 Attorneys for Plaintiff:

5 SCHWARTZ PERRY & HELLER LLP

6 3 Park Avenue

7 New York, New York 10016

8 BY: BRIAN HELLER, ESQ.

9 -AND-

10 CLAYMAN ROSENBERG KIRSHNER & LINDER LLP

11 305 Madison Avenue, Suite 650

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13 BY: JAMES F. VALENTINO, ESQ.

14

15 Attorneys for Defendant:

16 QUINN EMANUEL URQUHART & SULLIVAN, LLP

17 51 Madison Avenue, 22nd Floor

18 New York, New York 10010

19 BY: HOPE D. SKIBITSKY, ESQ.

20 JANICE YOON, ESQ. (Not Present Throughout)

21 MAHEEMA HAQUE, ESQ. (Not Present Throughout)

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2 APPPEARANCES (Continued):
3

4 ALSO PRESENT:
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7 KATHRYN SHIBER
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AMANDA KOSOWSKY, ESQ.,
Chief Compliance Officer
Centerview Partners, LLC

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2 A. It was just myself.

3 Q. Do you know who Ms. Vicari reports to?

4 A. Robert Pruzan.

5 Q. Who is that?

6 A. He is one of the founding partners of our

7 firm.

8 Q. Does Centerview have a policy against

9 discrimination?

10 A. Yes.

11 Q. Is that in writing?

12 A. Yes.

13 Q. Where is that policy contained?

14 MS. SKIBITSKY: Objection to form.

15 A. I'm sorry, can you repeat the question?

16 Q. Sure.

17 Where is that written policy set forth?

18 MS. SKIBITSKY: Objection to form.

19 A. "Set forth"?

20 I don't know what you mean by "set forth."

21 Q. Do you maintain the policy on

22 discrimination in a handbook or is it in a secret

23 vault in the basement of the building?

24 A. It's posted on our internal iNet.

25 Q. Does Centerview have a handbook?

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2 MS. SKIBITSKY: Objection; vague.

3 A. Can you define what you mean by
4 "handbook"?

5 Q. Does Centerview have an employee handbook?

6 MS. SKIBITSKY: Objection; vague.

7 A. We have our antidiscrimination and
8 harassment policy, and we have our compliance manual.

9 Q. Do employees receive copies of the
10 antidiscrimination policy?

11 A. Yes.

12 Q. Is it actually provided to them, or is it
13 that they can access it on the Internet?

14 A. It's on the Internet, and they need to
15 sign off on that policy, that they have read it, upon
16 hire, and then there is an annual refresh every year.

17 Q. Is that refresh considered a training?

18 A. We also have annual training, as well.

19 Q. Who is in charge of the writing or the
20 text of the antidiscrimination policy at Centerview?

21 MS. SKIBITSKY: Objection; vague.

22 A. I believe that is part of our legal team,
23 in conjunction with HR.

24 Q. Are you at all responsible for writing the
25 policy against discrimination at Centerview?

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2 A. I am not responsible for it.

3 Q. Are you involved with writing the policy
4 against discrimination at Centerview?

5 A. I have reviewed the policy, yes.

6 Q. When you say that you have reviewed, do
7 you review it like any other employee at Centerview,
8 or do you review it as an editor?

9 A. As an editor.

10 Q. When is the last time Centerview revised
11 its policy against discrimination, to your knowledge?

12 MS. SKIBITSKY: Objection, foundation.

13 A. I don't recall off the top of my head.

14 Q. Who is responsible for providing the
15 training that you described?

16 MS. SKIBITSKY: Objection to form.

17 Q. The yearly training.

18 A. Well, we have done web-based learning, now
19 that -- with all things COVID, we have pivoted to
20 web-based learning.

21 Q. Who provides the training?

22 A. It's Emtrain.

23 Q. Is that a third party?

24 A. Correct.

25 Q. For how long has Emtrain provided the

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2 training?

3 A. I believe we started that in the fall of
4 2020.

5 Q. Before then, say in the summer of 2020,
6 who was responsible for providing training, if there
7 was training?

8 MS. SKIBITSKY: Objection; vague.

9 A. I believe in the summer of 2020 we
10 actually had our external counsel, as part of the
11 training, do a virtual training with our incoming
12 employees.

13 Q. Which outside counsel is that?

14 A. Mintz, Levin.

15 Q. Who at Centerview is responsible for
16 addressing an employee's request for an accommodation
17 based on a disability?

18 MS. SKIBITSKY: Objection; vague,
19 foundation.

20 A. I'm sorry, can you repeat the question?

21 MR. HELLER: I get where you are coming
22 from.

23 These are actually speaking objections.

24 All of the objections you are making to
25 form are preserved.

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2 I don't know if we need all of the
3 commentary with each question and your opinion
4 that it's vague.

5 So feel free to say, "Objection," but
6 perhaps we can pause on the speaking part of
7 it.

8 Q. My question was, who is responsible for
9 addressing an employee's request for an accommodation
10 based on a disability at Centerview?

11 MS. SKIBITSKY: Objection; vague.

12 A. A request for an accommodation would come
13 to HR or to me.

14 Q. Do you have any type of training in
15 addressing requests for an accommodation based on a
16 disability?

17 MS. SKIBITSKY: Objection.

18 A. On-the-job training.

19 Q. Approximately, how many times have you
20 addressed a request for an accommodation based on a
21 disability during your employment at Centerview?

22 A. There have not been many requests for
23 accommodations during my time at Centerview.

24 Q. Do you remember any?

25 A. There have been requests for medical

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2 accommodations, which have been addressed.

3 Q. When you say a "medical accommodation,"
4 is that an accommodation based on a disability?

5 A. I don't know.

6 Q. Did Kate Shiber make a request for an
7 accommodation based on a disability?

8 A. Kate Shiber made a request for an
9 accommodation based on a medical condition.

10 Q. At the time she made that request, that
11 was in late August of 2020?

12 A. Correct.

13 Q. Had you ever had anybody make a request
14 for a medical accommodation based on a medical
15 condition?

16 MS. SKIBITSKY: Objection; vague.

17 A. Yes.

18 Q. About how many times?

19 A. A few.

20 Q. What kinds of accommodations did people
21 request?

22 A. Most of our accommodations were medical
23 accommodations for someone who had surgery, or a bad
24 back, or a bad knee, or a bad shoulder, and they
25 required, you know, a standing desk, things of that

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2 nature.

3 Q. They were more of working equipment
4 requests for an accommodation?

5 A. Yes.

6 Q. Did any of those requests involve time
7 off?

8 A. Most of the time that would probably
9 coincide with if they had had surgery or something
10 of that sort.

11 Q. Were those requests temporary in nature
12 or were they long term?

13 A. I don't understand the question.

14 Q. Were you aware of any request for an
15 accommodation where someone was asking for a
16 long-term adjustment rather than a short-term
17 adjustment as an accommodation?

18 MS. SKIBITSKY: Objection.

19 A. No.

20 Q. The person who joined you about a year
21 ago, what was that person's position prior to
22 working under you?

23 A. She is a junior level. She was an office
24 assistant.

25 She has moved over to be an HR assistant

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2 in the fall of 2019, when the offer letter was
3 issued?

4 A. Correct.

5 Q. Understood.

6 Do you recall when you first met with
7 Kate?

8 A. First met with her?

9 Q. Yes.

10 A. No, I don't recall.

11 I -- well, I don't recall when we first
12 met.

13 Q. But there came a time when you met with
14 her on August 28th of 2020, correct?

15 A. Yes.

16 We spoke over Zoom, yes.

17 Q. Do you recall if you had ever seen or met
18 with Kate prior to then?

19 A. I never met with Kate prior to that, that
20 I recall.

21 We may have exchanged e-mails as part of
22 the onboarding process.

23 Q. Do you know how Kate came to work at
24 Centerview?

25 A. Yes.

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2 Q. Is that something that you knew at the
3 time or something that you know now?

4 MS. SKIBITSKY: Objection; vague.

5 Q. What I am trying to ask is, I understand,
6 as you sit here today, that you know how Kate came
7 to work at Centerview, but on August 28th of 2020,
8 did you know how Kate came to work at Centerview?

9 A. I don't recall knowing that.

10 Q. Kate was hired into the three-year analyst
11 program, correct?

12 A. Yes.

13 Q. Who was Kate's supervisor when she was
14 hired?

15 MS. SKIBITSKY: Objection; foundation.

16 A. Centerview Partners follows a generalist
17 model, especially at the junior level; therefore,
18 any given staffing or assignment that that person is
19 on, their supervisor may change depending upon the
20 team structure.

21 So our analysts, even associates and
22 above, don't have one supervisor. It's really
23 whoever that person on their team is, whether it's
24 an associate on a team or, if there is not an
25 associate, the principal on the team.

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2 MS. SKIBITSKY: Objection; foundation.

3 A. I think in -- say that one more time.

4 Sorry.

5 Q. Certainly.

6 Does Ms. Vicari have the authority to
7 terminate a first-year analyst's employment?

8 MS. SKIBITSKY: Objection.

9 A. Yes, she does.

10 Q. How long has Ms. Vicari worked at
11 Centerview?

12 MS. SKIBITSKY: Objection; foundation.

13 MR. HELLER: What is the basis of the
14 objection to foundation?

15 MS. SKIBITSKY: You have not established
16 that Ms. Robinson has any understanding as
17 to when Ms. Vicari started working at
18 Centerview.

19 MR. HELLER: I don't think that that is an
20 objection based on foundation.

21 I don't think that you are using that
22 objection correctly.

23 MS. SKIBITSKY: Okay, that is fine.

24 As you said, my objection --

25 MR. HELLER: It is a pretty simple

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2 Q. I'm sorry, did you work with Ms. Vicari
3 when you were at Wasserstein?

4 A. Yes.

5 Q. And she recruited you to Centerview?

6 A. Yes.

7 Q. Is Ms. Vicari responsible for employees
8 at Centerview?

9 MS. SKIBITSKY: Objection; vague.

10 Q. Let me rephrase that.

11 Is she responsible for employment
12 decisions regarding employees at Centerview?

13 MS. SKIBITSKY: Objection; vague.

14 A. Can you repeat that?

15 I am not sure about the context of the
16 question.

17 Q. Does she hold administrative authority
18 over employment decisions at Centerview?

19 A. Yes.

20 She is the chief operating officer.

21 Q. Do the partners defer to her for
22 administrative decisions regarding employees?

23 MS. SKIBITSKY: Objection.

24 A. Yes.

25 Regarding administrative decisions, yes.

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2 share it on the screen.

3 It is an e-mail from Kate Shiber to you,
4 dated August 28th of 2020, Bates No.

5 Centerview 1859.

6 (Plaintiff's Exhibit 11 placed on shared
7 screen.)

8 Q. Have you ever seen this document before?

9 A. Yes.

10 Q. Do you recall receiving this document?

11 A. Yes.

12 Q. Do you recall any prior discussions that
13 you had with Kate before you received this e-mail?

14 A. No.

15 Q. In this e-mail Kate writes, "I may need
16 accommodations and do not feel comfortable advocating
17 for myself so I would really appreciate your help on
18 this."

19 When you saw this e-mail, and you saw that
20 word, "accommodations," did you have any
21 understanding as to what Kate was talking about?

22 A. I did not.

23 Q. Did you set up a time to speak with Kate?

24 A. I did.

25 Q. Do you recall when you spoke with Kate?

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2 A. It was later that afternoon.

3 Sometime later that afternoon, 3:00
4 perhaps.

5 We set up a Zoom later that day.

6 Q. Did Kate request to speak with you about
7 how she could manage work-life balance?

8 A. The conversation did start there, yes.

9 Q. What do you recall Kate saying to you?

10 A. When we got on the Zoom -- sorry, I am
11 just trying to -- when we got on the Zoom, Kate did
12 mention that she was concerned because she had, I
13 guess, worked a few days in a row late nights, and
14 that she had logged off for the night, and I guess
15 that sometime during that time period she was -- I
16 am assuming -- e-mailed or she was contacted by a
17 member of the team and she did not receive it until
18 she woke up in the morning.

19 So she was asking me how to manage that
20 to let her team know that she was signed off for the
21 day, and our conversation was that -- I said, "You
22 can certainly let your team know when you have signed
23 off for the day."

24 She was working remotely at the time, so
25 I said, "You should e-mail the team that you are

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2 working on and let them know that you are signed off
3 for the day."

4 At that time, I believe she also mentioned
5 that she had some doctor appointments that she needed
6 to keep.

7 I told her the same thing, that she should
8 keep her doctor appointments, but certainly let her
9 team know about her appointments, so they know where
10 she is.

11 During that conversation, Ms. Shiber
12 mentioned that she has a medical condition, and that
13 she needs consistent, I believe she said, eight to
14 nine hours of sleep, so she was concerned about the
15 hours at the time, and she mentioned that she -- I
16 actually even asked, I said, "Eight to nine hours in
17 a row? How are the eight to nine hours?"

18 She said, "Consistently in a row."

19 That is kind of what the conversation was
20 that we had, and we went from there.

21 Q. How did the call end, that you recall?

22 A. I believe we talked about -- we had
23 multiple conversations.

24 I believe in that conversation I asked
25 about what the weekend looked like, because it was a

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2 Friday afternoon, and knowing that she had just had
3 a bunch of late nights, I believe I asked her what
4 the weekend looked like, and she thought that it was
5 going to be okay in regard to being able to get the
6 time off that she needed for her sleep.

7 I believe that is how we ended the call,
8 that we were going to -- I can't remember if that
9 time is when we talked about getting a letter from
10 her doctor or not in regard to the needed
11 accommodation.

12 I believe I said, "Leave it to me and I
13 will circle back with you."

14 Q. Did you tell Kate that she did the right
15 thing by contacting you?

16 A. Yes, absolutely.

17 Q. Did you tell Kate that you don't recall
18 having had any accommodations like this before, but
19 you would see what you could do?

20 A. I don't recall saying that.

21 Q. Did you tell Kate that she did not have
22 to disclose the specifics of her medical condition?

23 A. Yes.

24 Q. Why did you tell her that?

25 A. Because if she -- she had told me she was

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2 under a doctor's care, and I said that I needed to
3 understand -- the doctor needs to put it in writing
4 what the needed accommodation is.

5 I wasn't concerned with the diagnosis
6 because I am not a medical doctor.

7 If her medical doctor is, you know,
8 writing a letter stating what the needed
9 accommodation is, for me that is information I
10 needed.

11 Q. Do you recall how many times you spoke
12 with Kate on August 28th of 2020?

13 A. Multiple times.

14 Q. Do you recall if it was twice or was it
15 more than that?

16 A. More than twice, yes.

17 Q. How long did this first call take?

18 A. I don't recall the exact time.

19 Q. Is everything that you described so far
20 from that first phone call you had with Kate?

21 A. I honestly don't recall if it was the
22 first call or multiple calls after it.

23 There were many calls in the next few
24 hours just making sure that we were addressing her
25 need for having some time -- the accommodation

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2 having that time off before the weekend started.

3 Q. Did she ask for time off on the weekends?

4 A. She said that she needed consistent eight

5 to nine hours' sleep.

6 She mentioned that she thought that she

7 would be okay for the weekend, but as we know, in

8 investment banking the hours are very unpredictable,

9 and when someone thinks on a Friday afternoon that

10 they are going to have time off, that may not

11 necessarily be what happens over the weekend.

12 Q. Had Kate asked for time off over the

13 weekend?

14 MS. SKIBITSKY: Objection; asked and

15 answered.

16 A. At this point in time, Kate had made it

17 clear that she needed to have consistent sleep.

18 She was working on a live deal at the

19 time which, as I mentioned earlier, given the

20 unpredictability, that there was a good chance that

21 Kate was going to be asked to work over the weekend

22 long hours, and based on the information that I had

23 just received from her that she had a medical

24 condition, and that she required consistent eight to

25 nine hours' sleep, we were going to make sure --

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2 whether she asked for it or not, we had to now -- we
3 had that information, and we had to take the steps
4 and make sure that she was able to have that time
5 off.

6 Q. Did Kate ask for time off over the
7 weekend?

8 MS. SKIBITSKY: Objection; asked and
9 answered.

10 A. Kate did not believe she was going to have
11 to work over the weekend. She was --

12 Q. Did Kate --

13 MS. SKIBITSKY: Brian, can you let the
14 witness finish her answer, please.

15 MR. HELLER: Well, I am getting a lot of
16 dancing around the question.

17 Q. It's true that Kate never specifically
18 said, "I would like time off over this coming
19 weekend," correct?

20 A. Correct.

21 Q. When Kate said she needed eight to nine
22 hours' sleep, did you ask her to clarify that at all?

23 A. I did.

24 I believe I -- I'm sorry, I did ask her,
25 "In a row? At one time?"

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2 She said, "Ideally, in a row, yes."

3 Q. Did she say she needed that every single
4 night?

5 A. She just said she needed eight to nine
6 hours of sleep consistently.

7 Q. Did you take any notes during any of your
8 telephone calls with Kate?

9 A. Yes.

10 MR. HELLER: I am going to show you
11 another document, that will be Exhibit 17.

12 It is in the chat and I am going to
13 share it on the screen.

14 (Plaintiff's Exhibit 17, one page of
15 handwritten notes, Bates stamped No.
16 Centerview_003337, marked for identification,
17 as of this date.)

18 (Plaintiff's Exhibit 17 placed on shared
19 screen.)

20 BY MR. HELLER:

21 Q. These are handwritten notes that we
22 received, Bates No. Centerview 3337.

23 Is this your handwriting?

24 A. Yes.

25 Q. Are these notes that you took during a

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2 advocate, so I was taking notes on that, yes.

3 Q. On the line below that, I believe it says,
4 "Concerns"?

5 A. Yes.

6 Q. What does it say after that?

7 A. I think it says, "past week 4 a.m. in at
8 1:30 a.m.," "Stay up that late multiple days in a
9 row."

10 Q. What does it say up here (indicating), in
11 the corner?

12 A. That is what I had mentioned before.

13 She said she had worked until after
14 midnight for two nights.

15 Q. I am asking if you can read it.

16 A. I apologize.

17 "After midnight 2 nights up to 1 a.m.
18 submitted went to sleep, an hour later emails already
19 started," I believe it says -- I am sorry, it says,
20 "After midnight 2 nights up to 1 a.m. submitted went
21 to sleep...," and then an hour later she got an
22 e-mail already asleep.

23 Q. And what does it say after the word
24 "Bigger"?

25 A. "Bigger concern, hours, 9 hours of sleep

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2 that she thought working late would be, like,
3 10:00 p.m. or, like, midnight.

4 Q. Do you recall if you responded to that?

5 A. I don't remember if I actually responded
6 to that, no.

7 I don't remember specifically if I
8 responded to that.

9 Q. What do you consider to be long hours at
10 Centerview?

11 MS. SKIBITSKY: Objection.

12 A. As I mentioned earlier, I don't review
13 time sheets.

14 I do know that our analysts are, as I
15 mentioned earlier, they are on a -- how do I say
16 it? -- unpredictable schedule, so there are often
17 times that they need to be on call 24-7, so because
18 of the unpredictability of it, they are available.

19 Q. Are employees made aware that there will
20 be times when they will need to be on call 24 hours
21 a day?

22 MS. SKIBITSKY: Objection; foundation.

23 Q. If you know.

24 A. Sorry, I did not understand that.

25 Can you repeat that?

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2 Q. Are employees at Centerview made aware
3 that they may be required to work 24 hours in a row?

4 MS. SKIBITSKY: Objection; misstates the
5 testimony.

6 A. I don't think that I said that they need
7 to work 24 hours in a row.

8 I think what I said -- if I can restate
9 it -- is that 24-7 hours are unpredictable, and it's
10 a possibility they will be contacted at unpredictable
11 hours.

12 Q. How are employees at Centerview made aware
13 that they may be contacted at unpredictable hours?

14 A. I am not a part of that communication. I
15 don't know.

16 Q. Have any other employees ever come to you
17 to talk about sleep?

18 MS. SKIBITSKY: Objection.

19 A. No.

20 Q. Have any other employees come to you to
21 talk about hours worked?

22 A. No.

23 Q. Did Kate talk to you about an e-mail she
24 received from Timothy Ernst?

25 A. I believe that was part of the

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2 conversation when she mentioned that she had just
3 gotten to sleep, and when she woke up there was an
4 e-mail that she didn't answer, and that someone may
5 have said something to her.

6 I don't recall whether it was Tim or
7 someone on the team.

8 MR. HELLER: I am going to show you a
9 document, and ask you if you have ever seen
10 this before.

11 This is going to be Plaintiff's
12 Exhibit 18.

13 It's Bates No. Centerview 1857.

14 (Plaintiff's Exhibit 18, one-page printout
15 of e-mail, dated 8/28/2020, 2:08:29 PM, to
16 Matthew Gailea, from Kate Shiber, Bates
17 stamped No. Centerview_001857, marked for
18 identification, as of this date.)

19 (Plaintiff's Exhibit 18 placed on shared
20 screen.)

21 BY MR. HELLER:

22 Q. Have you ever seen this document before?

23 A. I don't recall seeing this e-mail.

24 Q. Going back to your notes, were you
25 surprised to hear that Kate was working from

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2 4:00 a.m. to 1:30 a.m.?

3 A. I don't recall what I thought when I heard
4 that.

5 Q. Was that unusual, in your opinion?

6 A. Again, I am not involved in the hours of
7 analysts.

8 As I mentioned, I do know that they work
9 a lot of hours, unpredictable times.

10 Based on what was going on with the deal,
11 things can be unpredictable.

12 Q. Does Centerview do anything to monitor
13 the hours of analysts?

14 MS. SKIBITSKY: Objection.

15 A. I'm not sure what you mean by that
16 question.

17 Q. Does Centerview do anything to ensure that
18 its employees live a healthy lifestyle?

19 MS. SKIBITSKY: Objection.

20 A. Again, I'm not really sure what that
21 question means.

22 Q. Does Centerview require employees to get
23 a certain number of hours of sleep each night?

24 A. As I mentioned earlier, I am not involved
25 in the scheduling of our bankers in regards to that.

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2 would know why that was in progress.

3 Q. When did the phrase "guardrails" first
4 come up with regard to Kate Shiber?

5 A. I believe it was during one of our -- my
6 conversations with Tony Kim.

7 Q. Do you know who came up with the concept
8 of guardrails?

9 A. I don't recall.

10 It was part of our -- you know, part of
11 our discussions and conversations.

12 Q. Do you recall if the notes below "Discrete
13 as possible" are from a separate phone call than the
14 one you had with Kate?

15 MS. SKIBITSKY: Objection.

16 MR. HELLER: Let me rephrase that.

17 Q. Do you recall if the notes below "Discrete
18 as possible" were from the first conversation that
19 you had with Kate or from a different conversation
20 that you had with Kate?

21 A. I don't recall.

22 As I mentioned earlier, we had multiple
23 conversations throughout Friday and Friday evening,
24 again, with the understanding that we were going
25 into a weekend on a live deal where at any moment

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2 someone on her team would be reaching out to her,
3 again, at any time of the day or night, with an
4 expectation of her to work.

5 So at some point the conversation was
6 that we had to put in some kind of, you know,
7 guardrails, per the notes, so that that team would
8 not contact her, given the request that she needs to
9 have a consistent nine hours of sleep.

10 Q. Did you do anything as part of that
11 discussion regarding Kate to inquire how often
12 employees are required to work during the middle of
13 the night?

14 A. Did I do any -- I'm sorry, did I do any
15 research into how often employees need to work during
16 the middle of the night?

17 Q. Yes.

18 A. No.

19 Q. When you say that she is in the middle of
20 a live deal with unpredictable hours, how often does
21 that happen at Centerview?

22 MS. SKIBITSKY: Objection.

23 A. Again, I am not a banker, I am not part of
24 the staffing team, but from my information, what I
25 am aware of, live deals happen and it's -- I can't

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2 quantify how often it happens.

3 Q. Well, what is the information that makes
4 you say that this even occurs at all?

5 How do you know that there are live deals
6 that require unpredictable hours?

7 A. Excuse me, would you say that again.

8 Q. How are you aware that there are live
9 deals that require unpredictable hours in the middle
10 of the night?

11 A. Because I have worked at the firm for ten
12 years, and I have been aware of bankers working late
13 nights, early mornings.

14 So just being in the office, these are
15 things that you know of.

16 Q. From what you see, what is the frequency
17 of bankers working overnight?

18 MS. SKIBITSKY: Objection; asked and
19 answered.

20 A. Again, I don't monitor their time.

21 I don't have that information in hand,
22 but I do know bankers do work unpredictable hours,
23 and often those are late nights, early morning.

24 That's just what my understanding is.

25 Q. Is it your understanding that bankers

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2 work late nights or they work overnight, into the
3 morning?

4 A. Both.

5 Q. But you don't know how you are aware of
6 that, correct?

7 MS. SKIBITSKY: Objection.

8 A. Again, I am aware of it from being in the
9 industry for ten years, and understanding the nature
10 of a banker's role in regard to the unpredictability,
11 and folks being available when things are happening.

12 Again, I think that the bottom line here
13 is that it's unpredictable, and it's pretty much
14 common knowledge in the industry, and in my
15 experience at Centerview.

16 Q. There is a word on the bottom left that I
17 believe says, "Afraid."

18 Is that what it says?

19 A. Yes.

20 I think there was -- that she was afraid
21 to sign off when -- it says, "Afraid, 3:30 sign off,
22 keep working," and I can't read the rest.

23 Q. Does it say, "Don't allow to" something?

24 A. I can't read that.

25 "Doesn't want to bring" -- I don't know

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2 what that says.

3 Q. Then it says, "Day to Day"?

4 A. Yes.

5 It says, "Day to Day Basis, Bottom of the
6 totem pole," I can't read the next word, and then it
7 says, "how do I need to sign off."

8 Q. It says over toward the right, "Concern
9 not stand out in negative way," correct?

10 A. Correct.

11 Q. Does this (indicating) say, "autonomy"?

12 A. I don't think so.

13 I don't know.

14 Q. What do you recall about her expressing
15 concern about not standing out in a negative way?

16 A. I think during our multiple conversations
17 when we were discussing how to manage her request
18 that she needed eight to nine hours of sleep, that
19 part of that was -- you know, especially going into
20 the weekend, I think the conversation with Tony was
21 "Listen, we can work with you. We can destaff you
22 from this live deal," and she said no, that she
23 didn't want that.

24 She also mentioned that she did not want
25 anyone to know about the accommodation.

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2 She still wanted to be staffed on all of
3 the live deals, and basically, you know, continue
4 on, and she didn't want to stand out in a negative
5 way if people knew, or if -- you know, subconsciously
6 or not consciously.

7 Q. And she didn't want to stand out in a
8 negative way because of what; what was your
9 understanding?

10 A. That she needed an accommodation because
11 she needed nine hours of sleep based on her request
12 and doctor's note.

13 Q. What was your understanding of why she
14 needed eight to nine hours of sleep?

15 A. She mentioned a medical condition, and I
16 believe her neurologist, so I did not really think
17 anything, and I did not ask her what it was.

18 Q. But you think she had a disability?

19 A. She mentioned that she had a medical
20 condition.

21 I did not come to any conclusion on what
22 that was or what that wasn't.

23 Q. Did you think she did not want her
24 teammates to know about the accommodation because
25 she didn't want them to know she had a disability?

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2 MS. SKIBITSKY: Objection; calls for
3 speculation.

4 A. I don't know why or what her reasoning
5 was for that.

6 I can just let you know that she was
7 adamant that she did not want to, you know, have
8 anyone know.

9 She didn't want to be destaffed. She
10 still wanted to be staffed on all of the same deals.

11 That is what I did know.

12 Q. Did you think that Kate was concerned
13 about having a stigma placed on her because of the
14 accommodation?

15 MS. SKIBITSKY: Objection; calls for
16 speculation.

17 A. Based on our conversations, she was
18 concerned about, you know, the team knowing.

19 Q. But did you think that was because she
20 was concerned there might be a stigma placed on her
21 by the team?

22 A. I don't know what her concern was.

23 Q. Did you ask her, "Why don't you want the
24 team to know about this?"

25 A. I did not ask her that.

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2 doctor. I did not come to any conclusion whether
3 that was a disability or not.

4 All I knew is that she mentioned that she
5 had a medical condition which required nine hours of
6 sleep, and we were there to make sure, you know,
7 especially in the near term, that she was able to
8 get that time off so it would not hinder her medical
9 condition.

10 Q. Did you think that Kate was being sincere
11 in saying she needed eight to nine hours of sleep a
12 night?

13 MS. SKIBITSKY: Objection; calls for
14 speculation.

15 A. Yes.

16 Q. Did Kate talk at all about how she felt
17 about the job at Centerview?

18 A. I had no conversations like that.

19 Q. Did she ever talk to you about her
20 concerns about losing the job?

21 A. I believe she did -- if you see the notes
22 on the bottom -- I believe she did say that, you
23 know, again, that she didn't want anyone to know
24 because they would treat her differently, and that
25 maybe subconsciously or consciously that would

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2 Friday at 5:00 p.m. or Friday at 10:00 p.m. things
3 could just go in a whole different direction?"

4 Yes, I believe I did have conversations
5 with Tony -- I know I had conversations with Tony
6 prior to us then talking to Kate.

7 Q. Did you reach out to Tony because he was
8 the partner on the deal, or because of some other
9 reason?

10 A. Tony was the partner on the deal.

11 He is also part of the -- you know, part
12 of the staffing team, works with the PDC, is heavily
13 involved in our banker development.

14 Q. So did you reach out to him for both of
15 those reasons, or just one of them, or something
16 else?

17 A. I don't recall.

18 It could be both.

19 It happened to be that it was the same,
20 so I don't recall my thought process on that.

21 Q. When you spoke with Tony about the
22 weekend, did you talk about having Kate do no work
23 over the weekend or get consistent sleep over the
24 weekend?

25 MS. SKIBITSKY: Objection.

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2 A. I believe throughout our conversations --
3 and there were multiple conversations -- I believe
4 what we finally came up with as a resolution is what
5 you said, what's called guardrails, where we would
6 give her time off to have those eight to nine hours
7 of sleep which she required.

8 Q. Was that supposed to start over the
9 weekend or was that supposed to start on Monday,
10 after she had the weekend off?

11 A. If I recall correctly -- and I don't have
12 anything in front of me -- I believe it was
13 immediately starting that weekend.

14 Q. That the guardrails would start that
15 weekend, correct?

16 A. I believe so, yes.

17 Q. Who came up with the idea that the
18 guardrails would be midnight to 9:00 a.m.?

19 A. I believe Tony and I did.

20 Q. Did you think that that was a feasible
21 solution to the problem that Kate presented to you?

22 MS. SKIBITSKY: Objection.

23 A. Whether it was a feasible solution, it
24 was something that -- again, we were faced with a
25 weekend of possibly work coming up on a live deal,

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2 where someone had just advised us they need
3 consistent sleep, and they have not had sleep, and
4 we were making sure that she was able to have that
5 time off for sleep.

6 Q. Did you think that the guardrails of
7 midnight to 9:00 a.m. would solve the problem?

8 MS. SKIBITSKY: Objection.

9 A. Again, at the time, we were addressing
10 the need, the immediate need of setting something in
11 place to get through the weekend.

12 Q. So was this just for the weekend these
13 guardrails or was this more of a long-term issue?

14 MS. SKIBITSKY: Objection; vague.

15 A. It continued past the weekend.

16 Q. My question was, did you anticipate that
17 it would continue past the weekend?

18 A. Yes.

19 Q. Did you think that this might solve the
20 problem?

21 MS. SKIBITSKY: Objection; vague.

22 A. At the time, we had this in place, and
23 that is where we were at a given moment.

24 Q. Did you think, "We will set up these
25 guardrails from midnight to 9:00 a.m., but Tony and

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2 I both know this is never going to work out"?

3 A. I did not draw that conclusion.

4 Q. Did you think, "Let's see how this works,
5 if this solves the problem"?

6 MS. SKIBITSKY: Objection.

7 A. Again, we were focused on the immediacy
8 of it.

9 Q. So was this just haphazardly slapped
10 together or was this thought through?

11 MS. SKIBITSKY: Objection; argumentative,
12 vague, asked and answered.

13 A. It was not haphazardly slapped together.
14 It was thought through.

15 Again, this was all happening on a Friday
16 afternoon, late night, when there was a possibility
17 that the members of the team were going to have to
18 work through the night at different hours because,
19 you know, of the unpredictability of a live deal.

20 It was not haphazardly slapped together.

21 It was thought through to make sure that
22 they had the time off, the protected hours that she
23 needed based on her request for an accommodation
24 where she needed eight to nine hours of sleep
25 consistently.

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2 didn't want to do?

3 I am looking at Plaintiff's Exhibit 17.

4 A. Can you repeat that question?

5 Q. Did you think that telling Kate's
6 teammates not to contact her over the weekend would
7 cause her to stand out in a negative way?

8 MS. SKIBITSKY: Objection; misstates the
9 testimony.

10 A. The only way to manage her request for
11 consistent hours of sleep was to let the team know
12 that she was unable to work during a certain period
13 of time.

14 The team had to be made aware that she
15 was going to be off-line, and not be able to be
16 contacted, in order to accommodate her request for
17 nine hours of sleep consistently.

18 Q. Did you speak to the team about Kate's
19 guardrails?

20 A. What was the end of that?

21 I missed it.

22 Q. Did you speak to the team about Kate's
23 guardrails?

24 A. I did not.

25 Q. Do you know who did?

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2 A. Tony communicated to the team.

3 Q. Do you know if that was in writing, or if
4 that was verbal, or something else?

5 A. I have no idea.

6 Q. Did you provide any talking points to him
7 to talk to the team?

8 A. I did not.

9 Q. Did you do anything to assure that Tony
10 did not invoke the guardrails in a way that would
11 make Kate stand out in a negative way?

12 MS. SKIBITSKY: Objection.

13 A. Tony was going to be -- I know during our
14 conversation that Tony -- and I think he might have
15 even said it to Kate -- that the team would just
16 know that she was going to have time off during these
17 periods, and they were not going to be made aware of
18 any reason why.

19 Q. Did you have any concern that telling the
20 team that they could not speak to Kate over the
21 weekend while they were working over the weekend
22 would cause them to feel animosity towards her?

23 MS. SKIBITSKY: Objection; misstates the
24 testimony.

25 A. I do not believe that she wasn't going to

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2 during those hours.

3 Q. What was Kate's response to the idea of
4 the guardrails?

5 A. To me she was in agreement with it.

6 Q. Was there any concern that she raised
7 about her being viewed differently by her teammates
8 because of the guardrails?

9 A. Any part of our ongoing conversations
10 was, again, that she did not want to be treated
11 differently. She did not want to be staffed
12 differently. She still wanted to be staffed on all
13 of the live deals.

14 So absolutely she mentioned that these
15 were things that she still wanted to be able to do.

16 Q. Were the guardrails of midnight to
17 9:00 a.m. decided on Friday, August 28, 2020?

18 A. Yes.

19 Q. So that was decided before you had a
20 doctor's note, correct?

21 A. Correct.

22 We went off of the -- because of the
23 urgency of receiving the, you know, e-mail from Kate,
24 and the conversation that her and I had that she had
25 a medical condition that could be exacerbated not

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2 earlier, the expectation is that analysts are
3 available at all different times of the day.
4 Again -- and I know you don't like me
5 saying it -- the hours are unpredictable, so an
6 analyst is expected, as part of their role and
7 duties, that they are available for the work when
8 it's -- when it comes up.

9 Q. Are analysts expected to not sleep to
10 meet the expectations of their job?

11 A. No.

12 Q. Was there a back-and-forth with Kate about
13 the accommodation?

14 MS. SKIBITSKY: Objection; vague.

15 A. I'm sorry, was there --

16 Q. Was there a back-and-forth as to what
17 accommodation might work for Kate, and what might
18 work for Centerview, to see what was feasible?

19 A. Yes.

20 I think I mentioned before that we had
21 several conversations in regard to the requested
22 accommodation, and during one of those conversations
23 Kate made it clear that she didn't want to be
24 destaffed, she wanted to be on all of the deals, she
25 wanted to not have anyone be aware of the

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2 accommodation.

3 So there were different conversations that
4 happened, and, hence, the way for us to accommodate
5 her request was that we had to put these guardrails
6 in place so that other folks would not contact her
7 during these times that she needed to be -- that she
8 needed to get her sleep and wouldn't be available.

9 Q. Other than Kate wanting to stay on the
10 deal, and not wanting the team members to know about
11 the accommodation, what else did she say as part of
12 this back-and-forth?

13 A. She did mention that she wanted to still
14 be on all of the same deals as everyone else, and
15 she wanted to be treated like everyone else.

16 Q. Did Centerview propose any accommodation
17 to Kate that she rejected?

18 A. No.

19 Q. Was there any discussion that either you
20 or Tony had with Kate at any time asking Kate to be
21 allowed to tell her coworkers that she was being
22 accommodated for her medical condition?

23 A. I do not believe we had that conversation.

24 Q. Was there any conversation in which
25 Tony Kim was involved where it was stated that it

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2 I am going to represent to you that we had
3 some discussions amongst the lawyers, and that that
4 is not Eastern time.

5 A. Okay.

6 Q. Your e-mail to Ms. Vicari says, "Tony and
7 I connected with Kate. I'll update you Monday.
8 Thanks and enjoy the weekend!"

9 Do you recall sending this e-mail?

10 A. I don't recall sending it, but seeing it,
11 I did send it.

12 Q. Do you recall what time you sent this
13 e-mail?

14 A. I have no recollection.

15 Q. Do you recall when you first spoke to
16 Ms. Vicari about Kate Shiber?

17 A. I spoke with her on Friday afternoon, I
18 believe, after our initial conversation -- my
19 initial conversation with Kate, and I mentioned the
20 need for an accommodation, and I believe Ms. Vicari
21 is the one who mentioned to me that Kate was
22 currently staffed on the live deal, which then made
23 me realize that most likely the next few days might
24 be quite busy, and, you know, it became a more urgent
25 matter, not that it wasn't, but it came to the point

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2 where we needed to make sure that over the next few
3 days she was going to be able to get the time off she
4 needed and the sleep that she needed.

5 Q. Did you speak to Ms. Vicari before or
6 after you spoke to Mr. Kim?

7 MS. SKIBITSKY: Objection; vague.

8 A. I believe it was before, because I believe
9 she was the one who told me she was on a live deal,
10 and that Tony was the partner on that deal.

11 So I believe it was earlier than talking
12 to Mr. Kim.

13 Q. What was Ms. Vicari's response when you
14 told her about what Kate had conveyed to you?

15 A. I think it was the same thing that we were
16 saying, that they -- you know, that she is on a live
17 deal, and it's possible that there is going to be a
18 lot of work to get done over the weekend.

19 So it was the same idea, let's talk to
20 Tony and make sure that her hours are protected so
21 that it does not affect her health.

22 Q. Did you ever relate to Kate that it was
23 going to get busy over the weekend?

24 A. I believe Kate and I had, again, several
25 conversations, and I believe one of our conversations

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2 A. I don't remember any conversations with
3 Tony on that.

4 Q. With regard to the doctor's note, do you
5 recall talking to Kate about her getting a doctor's
6 note?

7 A. Yes.

8 Q. Did you tell her what the doctor's note
9 should say?

10 A. No.

11 I told her that she should get a note
12 from her doctor explaining what her needed
13 accommodation is.

14 I did say that it doesn't need to say
15 what her diagnosis is because, as I mentioned
16 earlier, it did not matter because I am not a
17 medical doctor.

18 I just needed to know what the medical
19 accommodation needed was.

20 (Plaintiff's Exhibit 9 placed on shared
21 screen.)

22 Q. Looking back at Plaintiff's Exhibit 9,
23 the letter that you received states what you told
24 Kate the letter needed to say, correct?

25 MS. SKIBITSKY: Objection; misstates the

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2 To me what her medical diagnosis meant
3 meant nothing to me as, again, I am not a medical
4 doctor. I rely on the medical doctors to put in
5 there what her required accommodation needed was.

6 Q. Did you believe that Kate was being
7 truthful about needing the accommodation?

8 A. Yes.

9 Q. When is the next time you heard anything
10 about Kate after September 2, 2020?

11 A. I can't remember specifically.

12 I think it was just an ongoing, you know,
13 dialogue that she had these guardrails in place.

14 Whether there was an actual conversation,
15 we knew that the guardrails were in place, or I knew
16 that the guardrails were in place.

17 Q. Did you ever speak with any of Kate's
18 colleagues about Kate after September 2, 2020?

19 MS. SKIBITSKY: Objection; vague.

20 A. Yes.

21 I spoke with some of her colleagues, but
22 not in regard to Kate.

23 I think that the one person I may have
24 spoken with was one of her -- her staffer just
25 because -- he just contacted me to make me -- you

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2 Q. Was he one of the decision-makers in the
3 decision to terminate Kate's employment?

4 A. It was a joint decision between Jeanne,
5 Robert, and I.

6 Q. What was the reason for terminating Kate's
7 employment?

8 A. Based on the accommodation that was
9 requested, we could not implement that full time,
10 full term, long term.

11 Q. How was it determined that Centerview
12 could not implement the accommodation long term?

13 A. Again, based on the nature of an analyst's
14 role, and the need for, you know, analysts to be
15 available at oftentimes different hours throughout
16 the day, given the accommodation, she would not be
17 available to fulfill the duties of an analyst.

18 Q. Was there any discussion about how the
19 guardrails were actually working during your
20 conversation with Ms. Vicari and Mr. Pruzan?

21 A. I believe the conversation was, again,
22 what I mentioned, that this is something that we
23 were not going to be able to maintain long term or
24 permanently based on the expectation of an analyst,
25 as I have mentioned many times, you know, in regard

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2 from working at Centerview?

3 MS. SKIBITSKY: Objection; vague and
4 incomplete hypothetical.

5 A. No.

6 Q. So an individual who requires consistent
7 sleep is still qualified to work at Centerview,
8 correct?

9 MS. SKIBITSKY: Objection; vague.

10 A. I have never received another request for
11 an accommodation where someone has requested
12 consistently nine hours of sleep.

13 Q. What does that mean?

14 A. It means I don't know what people consider
15 consistent sleep for themselves.

16 I do know that Kate Shiber considered
17 consistent sleep, and what her medical, you know,
18 note mentioned, that she needed consistent sleep,
19 nine hours.

20 Again, consistent sleep for different
21 people are different times.

22 I am going off of the consistent sleep
23 that she needed for her not to exacerbate her
24 illness.

25 Q. If someone came to you this week and said

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2 MS. SKIBITSKY: Brian, when it's an
3 appropriate time, can we take a break?

4 MR. HELLER: Yes.

5 Q. When you say that you concluded that it
6 would not work in a long-term situation, what was
7 that based on?

8 A. Based on what the role and duties of an
9 analyst are in regard to being available, and the
10 unpredictable nature of when that work is to happen.

11 Q. Was that based on any empirical evidence
12 or just a sense of what the business required?

13 MS. SKIBITSKY: Objection; vague.

14 A. It's based on what an analyst's role is,
15 and what the business is in regard to when work comes
16 up, when it's to be completed, and when it needs to
17 be delivered.

18 Q. So an analyst has to work overnight?

19 MS. SKIBITSKY: Objection.

20 A. There are times when it's a requirement of
21 the job.

22 Q. How often is it a requirement of the job?

23 MS. SKIBITSKY: Objection; asked and
24 answered.

25 A. I don't know the answer to that, but there

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2 are times when it's a requirement of the job.

3 Q. Did you ever express any concern that
4 terminating Kate based on the perception that long
5 term this wouldn't work out would be viewed as
6 disability discrimination?

7 MS. SKIBITSKY: Objection.

8 A. Again, we were unable to accommodate her
9 request based on the role that she was hired to
10 fulfill.

11 Q. Was there a job description that said,
12 "You must be able to work without sleeping"?

13 A. No.

14 There is no description that says, "You
15 must be able to work without sleeping."

16 Q. Why was Centerview unable to accommodate
17 Kate's need for sleep?

18 A. As I mentioned before, the role and
19 responsibilities and duties of an analyst --
20 regardless of what your perception may be -- is that
21 analysts are available at all hours of the day, and
22 it is not -- again, it's unpredictable.

23 It is not a situation where you get to a
24 job at 9:00 a.m. and you are done at 5:00 p.m.

25 There are times when work doesn't fall on

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2 someone's desk until late in the afternoon, and it
3 does require one to work overnight, and there is no
4 way to predict that.

5 MR. HELLER: Off the record.

6 (Discussion off the record.)

7 (Short recess taken from 12:10 p.m. to
8 12:15 p.m.)

9 MR. HELLER: Back on the record.

10 BY MR. HELLER:

11 Q. How would Kate have known that her need
12 to sleep consistently would have disqualified her
13 from employment as an analyst at Centerview?

14 MS. SKIBITSKY: Objection; misstates the
15 testimony.

16 A. Analysts at Centerview do sleep.

17 Based on her own specific medical
18 condition, that's a decision that she should
19 understand and accept in any role based on what
20 someone says are their needs.

21 I am not sure what your question is
22 asking.

23 Q. Correct me if I am wrong, but I believe
24 that you stated that long term Kate's need for sleep
25 precluded her from working as an analyst at

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2 A. Yes.

3 Q. What is your understanding of what an
4 "interactive process" is?

5 MS. SKIBITSKY: Objection; calls for a
6 legal conclusion.

7 A. We had communications with Kate in regard
8 to her accommodation and her need to have an
9 eight-to-nine-hour consistent sleep schedule.

10 There were conversations about destaffing
11 her on the live deals. That is not something she
12 wanted.

13 She was adamant that she wanted to be
14 treated like every other banker. She did not want
15 to be destaffed from the live deals.

16 She wanted all of the opportunities the
17 other bankers received without anyone knowing about
18 her need for an accommodation.

19 So in that communication the conclusion
20 was that we will put the guardrails in place, and
21 after further discussion we concluded that we could
22 not maintain this accommodation -- we could not
23 approve this accommodation long term.

24 Q. Did you ever tell Kate the reason why you
25 could not approve the accommodation long term before

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2 employment was made, did you ever tell her that her
3 accommodation was an undue burden?

4 A. No.

5 Q. Before Kate was terminated, did she ever
6 get a chance to respond to your concerns that her
7 accommodation would not work long term?

8 MS. SKIBITSKY: Objection.

9 A. No.

10 Q. The guardrails were Centerview's idea,
11 correct?

12 A. Correct.

13 Q. Did you think that it was fair to
14 terminate Kate because Centerview's proposal did not
15 work out?

16 MS. SKIBITSKY: Objection; vague.

17 A. The decision was made to terminate her
18 because we could not accommodate her request for a
19 consistent eight to nine hours of sleep.

20 Q. Did you know that she really needed eight
21 to nine hours of consistent sleep every single night?

22 A. Her doctor's note said that she needed a
23 consistent eight to nine hours of sleep; otherwise,
24 it would affect her medical illness.

25 I don't know what "consistent" is. I

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2 cannot tell you if that is two days a week, three
3 days a week, and I don't know who would be able to
4 manage that, but the team can't be expected to manage
5 that.

6 Q. Did you ever think that maybe there was a
7 bit more flexibility than what was in the doctor's
8 note?

9 A. No, because that is a doctor's note, and
10 that is what I asked for, what her accommodation need
11 was, and that is the note that she presented, and
12 that is what we were working off of.

13 Q. The doctor's note did not say that she
14 would turn into a pumpkin at midnight, correct?

15 MS. SKIBITSKY: Objection; argumentative.

16 A. I have no idea what would happen to her
17 at midnight.

18 Q. Did you ever ask her if she really needed
19 that kind of sleep every single night, or whether
20 there was some type of flexibility that she could
21 find?

22 A. No, I did not because in our very first
23 conversation she told me that she was very concerned
24 because she consistently needed eight to nine hours
25 of sleep.

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2 that were to protect her time were not going to be
3 something that we were going to be able to approve
4 long term because she would not be able to then do
5 the duties of an analyst, perform the duties of an
6 analyst.

7 MO MR. HELLER: I am going to move to strike
8 the answer as nonresponsive.

9 Q. I am going to ask that you actually listen
10 to the question before you answer it, and to try to
11 answer the question rather than bringing up a
12 completely separate claim.

13 MS. SKIBITSKY: I am going to object for
14 the record to the motion to strike.

15 MR. HELLER: Would you read back the
16 question please.

17 (Question read.)

18 A. Was I aware --

19 Q. Did you know from the start that the
20 guardrails were inconsistent with the duties of an
21 analyst?

22 A. The duties of an analyst, again, require
23 folks to be, you know, available at different times.

24 Putting the guardrails in place, was that
25 something that was not conducive to the role of an

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2 analyst?

3 At that point it was different than what
4 our expectations of our analysts were, yes.

5 Q. Did you put into place the guardrails
6 knowing that they would not work?

7 A. No.

8 Q. So you thought that they could work?

9 A. Again, we were putting something in place,
10 and seeing where that would go.

11 Basically, again -- I know you said that
12 it was a Friday, but it doesn't matter that it was a
13 Friday -- regardless of the day, we were putting
14 something in place to protect her needed hours of
15 sleep with the pending live deal.

16 Q. Why didn't you say to Kate when she
17 presented this problem to you, "Sorry, Kate, but
18 these are the hours of the job, and if you can't
19 work those hours, then it's just not going to work
20 out"?

21 A. Well, I think at that point, when we get
22 a request for an accommodation, we do look into it,
23 and we don't just -- I believe that during our
24 conversations it was mentioned that analysts need to
25 be available, and based on the other analysts and

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2 team members contacting you through the night, then
3 we have to put these in place for the interim.

4 I believe during our conversations we --
5 it was discussed that folks are expected to work at
6 all different hours.

7 And based on our initial conversation
8 when Kate called me, she was -- she even mentioned
9 to me that, you know, she thought the end of the day
10 was at 10:00 or midnight.

11 And based on the conversations that she
12 had had to work later than that on multiple
13 occasions, you know, my understanding is that she
14 was aware that the hours were not, you know, 9:00 to
15 5:00, or 9:00 to 12:00.

16 We were certainly treating this as,
17 number one, to protect her hours to make sure that
18 she was -- you know, that she got the time off she
19 needed, again, due to the fact that she was working
20 on a live deal, where if future workdays were going
21 to be similar to previous workdays, it would mean
22 that she would need to be available perhaps until
23 1:00, 2:00, 3:00 in the morning.

24 Q. Did you give Kate false hopes even
25 proposing the guardrails since you knew they would

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2 not work?

3 MS. SKIBITSKY: Objection; misstates the
4 testimony.

5 A. I don't know how Kate perceived what our
6 conversations were.

7 By putting guardrails in place it was,
8 again, obvious and apparent that analysts do work at
9 all hours, and it was apparent that this was an
10 accommodation.

11 Whether that was perceived as a false
12 hope, I don't know, I can't answer that question.

13 Q. Do you think that you created the
14 appearance to Kate that the guardrails could work,
15 while at the same time you knew that they could
16 never work?

17 MS. SKIBITSKY: Objection; misstates the
18 testimony.

19 A. Based on us being presented with the need
20 for an accommodation, we put guardrails into effect.

21 Do I know that analysts and bankers are
22 required to work off hours, all different times,
23 unpredictable schedules?

24 Yes.

25 Q. Yes or no, did you think that the

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2 conversation.

3 She was visibly upset.

4 To me that means that she was, of course,
5 surprised.

6 Q. Do you think that she should have expected
7 this?

8 A. I don't know.

9 Q. Did Ms. Vicari say to Kate, "Due to these
10 accommodations, you cannot perform the essential
11 functions of the job"?

12 A. I don't know that it was exactly that, but
13 it was along those lines, yes.

14 Q. Did Ms. Vicari say to Kate, "You made a
15 mistake in accepting this job knowing that you could
16 not complete the job"?

17 A. Again, I think it was something to that
18 effect.

19 Q. Did Ms. Vicari tell Kate that she should
20 have known that she would have been unable to do the
21 job?

22 A. I believe it was -- I don't know if it was
23 more of a back-and-forth, but, similarly, that --
24 again, we always talk about time frame, so yes, I
25 think that there was something along those lines.

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2 are asked to make an accommodation, we go off of what
3 the accommodation is requesting.

4 Q. When Kate offered to rescind the
5 accommodation, why didn't you say, "Okay"?

6 A. She had put forward a medical --

7 MR. HELLER: You lost your video.

8 Off the record.

9 (Discussion off the record.)

10 MR. HELLER: Back on the record.

11 Q. The question was, when Kate offered to
12 rescind the accommodation, why didn't you say,
13 "Okay"?

14 A. At that point, we already had the
15 information that she had a medical condition that
16 required nine hours of sleep, and the lack of having
17 that time to sleep could be detrimental to her
18 health.

19 Knowing the expectations of an analyst or
20 a banker -- not even an analyst -- at our firm, there
21 are folks that are going to be asked to work more
22 hours, like I said before, throughout the night,
23 sometimes overnight.

24 At that time, we had moved forward with
25 an accommodation for someone who said that it was

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2 feasible for the role?

3 A. No.

4 The role of an analyst, again, required
5 folks being staffed on different deals at different
6 times with different workloads, different work
7 schedules, and different times that they need to be
8 available.

9 The request for an accommodation for a
10 consistent nine hours of sleep, we could not
11 accommodate that for someone in the role of an
12 analyst on a permanent basis.

13 Q. Let me ask you this:

14 You have never conducted a formal analysis
15 as to what the hours are that analysts work, correct?

16 A. I have not.

17 Q. You never took a poll or a survey to ask
18 analysts, "What are the hours that you work,"
19 correct?

20 A. I have not.

21 Q. You did not review the iStaffing records
22 to determine what hours analysts work, correct?

23 A. I have not.

24 Q. When you made the determination that an
25 analyst cannot obtain nine hours of sleep each night,

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2 that was just based on what you felt was required
3 for the job, right?

4 MS. SKIBITSKY: Objection.

5 A. It's a known requirement of the job that
6 schedules fluctuate, and there are times when you
7 need to work overnight and through the night.

8 It was also based on experience with the
9 analyst role, who, again, do work through the night
10 and, oftentimes may get less than nine hours' sleep,
11 and correct, it was based on the fact that she needed
12 a consistent nine-hour sleep schedule a night.

13 Q. We have spent a lot of time talking about
14 what you knew about the hours analysts worked.

15 You said that it was based on being in
16 the office, correct?

17 A. Not specifically just being in the office,
18 but being a part of the, you know, investment
19 banking industry for the last ten years, yes, I am
20 aware that analysts work a lot of hours at many
21 different hours.

22 Q. But that is very vague, isn't it?

23 A. Is that a question?

24 Q. Yes.

25 That is vague, isn't it?

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2 A. I have worked in the firm for ten years,
3 and I am fully aware that bankers work all different
4 hours, you know, unpredictable schedules, oftentimes
5 overnight, sometimes late into the night, sometimes
6 early morning.

7 It's not a consistent 9:00 to 5:00, your
8 job is done, and now you can wait until tomorrow
9 morning to do this job.

10 It's -- again, the word that you don't
11 like -- it's unpredictable.

12 Q. You have never spoken to any analysts
13 about their sleep schedules, correct?

14 A. No.

15 Q. Did Kate ever tell you she thought it was
16 a 9:00-to-5:00 job?

17 A. I believe she mentioned to me -- and it is
18 in my notes -- that a late night was midnight.

19 Q. Did you say anything back to her when she
20 said that, that you recall?

21 A. Yes.

22 I believe I said that -- I mean, based on
23 that she had worked several nights past midnight, I
24 said that that is not the case, that there are often
25 late nights.

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